(3)

**SINGLE BENCH**

C.F. 100/-

# IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

## W.P.NO. 2505 / 2005

Petitioner : Dr.R.D.Dikshit,
S/o Late Shri R.P.Dikshit, Aged about 67 years, Presently residing at Tulsi Sagar, Gazipur (UP) –
For correspondence C/o V.S.Tiwari, Sarjoo Bagicha, Masanganj, Bilaspur (CG)

P.R. No. 2572/05
Presented by Shri Kunal Das
dated 13/6/05

Versus

Respondents :

1) State of Chhattisgarh – Through the Secretary, School Education Department, DKS Bhawan, Raipur (CG)

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2) The Director, State Council of Education, Research and Training, Shankar Nagar, Raipur (CG)

3) The Principal Govt. College of Education, Tarbahar, Bilaspur (CG)

4) The Principal, District Institute of Education and Training, Pendra, Distt. Bilaspur (CG)

## WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

1. Particulars of the Petitioner:

As stated a

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक** ..... W.P.No. 2505/2005 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|

**09-09-2005.**

**W.P. No.2505 of 2005.**

Heard Mr. P.R. Patankar, learned counsel for the petitioner and Mr.Arun Sao, learned Dy. Govt. Advocate for the State of Chhattisgarh / respondents.

The case was taken up for hearing on 22-06-2005 when notice was issued to the respondents. Mr. R.S. Koshy, learned Dy. Advocate General accepted notice on behalf of all the respondents and sought two weeks time to file reply. Thereafter, the matter was listed on 15-07-2005 and one more request was made by learned counsel for the respondents for grant of two weeks time as last opportunity to file reply. The matter was again taken up for hearing on 08-08-2005 and a similar request for grant of time was made by learned counsel for the respondents. This Court lastly granted three weeks time to file reply. Despite several adjournments, the respondents could not file their reply till date.

Learned counsel for the petitioner submits that the petitioner has retired from service on 31-07-1999 and the petitioner has not been paid salary for the previous one year from 31-07-98 to 31-07-99. In the letter dated 25-09-98 sent by the Under Secretary, Government of Madhya Pradesh, Department of Education to the Director, State Council of Education, Research and Training, Bhopal, it was stated that the petitioner be given reappointment on the condition that the petitioner would not claim any salary and allowances after 31-07-98. The petitioner was made to accept reappointment on honorary basis without claiming any salary and allowances. The petitioner was accordingly reappointed with effect from 31-07-98 as Principal, District Institute of Education and Training, Pendra, District Bilaspur.

Learned counsel for the respondents is not in a position to dispute the facts except that the State of Madhya Pradesh is a necessary party and the petition is belated.

State of Madhya Pradesh is not a necessary party as the petitioner at the time of retirement and at the time of reappointment was working at Pendra, District Bilaspur which comes within the territorial jurisdiction of the State of Chhattisgarh.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक** ..... W.P NO. 2505/2005 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश -2- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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On the question of delay, learned counsel for the petitioner submits that several representations were made and even the petitioner was assured that his case would be considered immediately. Letter dated 14-06-2002 (Annexure-P/5) clearly indicates that the Government was considering the case of the petitioner for grant of salary and other allowances for the period from 01-08-98 to 31-07-99. Be that as it may, the petitioner has admittedly worked as Principal, District Institute of Education and Training, Pendra, District Bilaspur and this fact is not disputed.

In view of the foregoing, the petitioner is entitled to payment of his salary and allowances for the work he has performed during the period from 01-08-98 to 31-07-99. The Government cannot force the employee to work without salary, as on perusal of the record, it is found that the School Education Department had directed the Director of State Council of Education, Research and Training, Bhopal to obtain an undertaking from the petitioner. But no such undertaking was filed by the petitioner and the petitioner was given reappointment with effect from 01-08-98. Accordingly, the petition is allowed and the respondents are directed to make payment of his salary and allowances, as permissible under the law, for the period from 01-08-98 to 31-07-99 immediately within a period of three months from the date of receipt of copy of this order.

Parties are entitled for certified copy of this order.

**Sd/-**
**Satish K. Agnihotri**
**Judge**